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59. (NEW) The device according to claim 22, wherein the means for aseptically filling the bottles further comprises: aseptically filling the bottles at a rate greater than 100 bottles per minute.

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60. (NEW) The device according to claim 22, wherein the aseptically sterilized foodstuffs are sterilized at a level producing at least a 12 log reduction in *Clostridium botulinum*.

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61. (NEW) The device according to claim 22, wherein the aseptically disinfected bottles are sterilized to a level producing at least a 6 log reduction in spore organisms.

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62. (NEW) The device according to claim 53, wherein the residual level of hydrogen peroxide is less than .5 PPM.

REMARKS

The Applicant respectfully requests entry of the above amendment and reconsideration in view of the amendment and the following remarks.

The status of the claims in the above-identified application is as follows. Claims 1-19 and 21 are canceled, claims 20 and 22-34 are pending, and claims 23-34 are withdrawn from consideration. Claims 35-62 are hereby added.

Claims 20 and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gies (4,862,933) in view of Olsson (5,799,464). The Examiner alleges that Gies discloses a method and apparatus for aseptically packaging aseptically sterilized foodstuffs comprising the means for providing a plurality of containers (cups 15); aseptically disinfecting the plurality of containers (apparatus 19) see for example (column 4, lines 18-23); aseptically filling the aseptically disinfected plurality of containers with the foodstuffs (apparatus 20) see for example (column 4, lines 23-25); and aseptically disinfected plurality of containers at a rate greater than 100 container per minute (column 4, lines 35 and 36) the machine can be operated to produce 33,600 packages per hour which is equal to 560 packages per

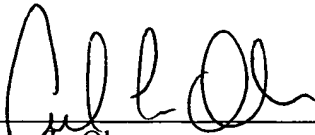
minute. The Examiner states, however, that Gies does not disclose the container is a bottle. He takes the position that Olsson discloses this (column 3, lines 38-45).

The Examiner has stated that Gies discloses a method and apparatus for aseptically sterilizing foodstuffs (emphasis added). Applicant disagrees. The Examiner has not disclosed each and every element of the claimed invention. Nowhere in Gies, is it disclosed that there is an aseptic operation. The Applicant's specification clearly states that in order to meet the definition of aseptic packaging, the packaging must inter alia take place in a sterile environment (See page 2, lines 13-17). Contrastingly, Gies is merely teaching the pre-sterilization of containers by application of hydrogen peroxide. (See e.g., Col. 1, lines 26-30). This is only one step, of many, in order to meet the definition of aseptic (See page 2, line 15). Each and every claim limitation has not been taught or suggested by the prior art. Thus, the Examiner's burden has not been met and his argument must fail.

The rejections of claims 20 and 22 under 35 U.S.C. §103(a) are respectfully traversed as being moot in view of Applicant's remarks.

Applicant respectfully submits, therefore, that claims 20, 22, and new claims 35 - 62 are in condition for allowance.

If the Examiner believes that anything further is necessary in order to place the application in better condition for allowance, the Examiner is requested to contact Applicant's undersigned representative at the telephone number listed below.


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